

1 **Rule 4-401.02. Possession and use of portable electronic devices.**

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3 **Intent:**

4 To permit the use of portable electronic devices in courthouses and courtrooms, subject to local  
5 restrictions.

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7 **Applicability:**

8 This rule applies to the courts of record and not of record.

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10 **Statement of the Rule:**

11 **(1) Definitions.**

12 (1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who  
13 is presiding over the proceeding.

14 (1)(B) "Portable electronic device" as used in this rule means any device that can record  
15 or transmit data, images or sounds, or access the internet, including a pager,  
16 laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder,  
17 wireless device, cellular telephone, or electronic calendar.

18 (1)(C) "Court proceeding" means any trial, hearing or other matter, including  
19 proceedings conducted by remote transmission.

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21 **(2) Possession and use of portable electronic devices in a courthouse.**

22 (2)(A) A person may possess and use a portable electronic device anywhere in a  
23 courthouse, except as limited by this rule or directive of the judge.

24 (2)(B) All portable electronic devices are subject to screening or inspection at the time of  
25 entry to the courthouse and at any time within the courthouse in accordance with  
26 Rule 3-414.

27 (2)(C) All portable electronic devices are subject to confiscation if there is reason to  
28 believe that a device is or will be used in violation of this rule. Violation of this rule  
29 or directive of the judge may be treated as contempt of court.

30 (2)(D) For the limited purpose of conducting a pilot project to evaluate the performance  
31 of justice court judges using courtroom observation, the Judicial Performance  
32 Evaluation Commission may record and transmit video and sound of court  
33 proceedings. These recordings and transmissions are not public, pursuant to  
34 Utah Code sections 63G-2-201(3) and 78A-12-206.

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36 **(3) Restrictions.**

37 (3)(A) **Use of portable electronic devices in common areas.** The presiding judges  
38 may restrict the time, place, and manner of using a portable electronic device to  
39 maintain safety, decorum, and order of common areas of the courthouse, such  
40 as lobbies and corridors.

41 (3)(B) **Use of portable electronic devices in courtrooms.**

42 (3)(B)(i) A person may silently use a portable electronic device inside a  
43 courtroom.

- 44 (3)(B)(ii) A person may not use a portable electronic device to record or  
45 transmit images or sound of court proceedings, except in accordance  
46 with Rule 4-401.01 or subsection (2)(D) above.
- 47 (3)(B)(iii) A judge may further restrict use of portable electronic devices in his or  
48 her courtroom. Judges are encouraged not to impose further  
49 restrictions unless use of a portable electronic device might interfere  
50 with the administration of justice, disrupt the proceedings, pose any  
51 threat to safety or security, compromise the integrity of the  
52 proceedings, or threaten the interests of a minor.
- 53 (3)(B)(iv) During trial and juror selection, prospective, seated, and alternate  
54 jurors are prohibited from researching and discussing the case they  
55 are or will be trying. Once selected, jurors shall not use a portable  
56 electronic device while in the courtroom and shall not possess an  
57 electronic device while deliberating.

58 **(3)(C) Use of portable electronic devices while viewing court proceedings**  
59 **conducted by remote transmission.**

- 60 **(3)(C)(i) A person may not use a portable electronic device to record,**  
61 **photograph, or transmit images or sound of court proceedings, except**  
62 **in accordance with rule 4-401.01 or subsection (2)(D) above. Access**  
63 **to court proceedings will be contingent on the person agreeing to**  
64 **comply with the provisions in this rule and any administrative or**  
65 **standing orders that supplement this rule.**
- 66 **(3)(C)(ii) A violation of an administrative or standing order may be treated as**  
67 **contempt of court.**

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69 **(4) Use of portable electronic devices in court chambers.** A person may not use a  
70 portable electronic device in chambers without prior approval from the judge.

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72 **(5) Instruction to witnesses.** It should be anticipated that observers in the courtroom will  
73 use portable electronic devices to transmit news accounts and commentary during the  
74 proceedings. Judges should instruct counsel to instruct witnesses who have been  
75 excluded from the courtroom not to view accounts of other witnesses' testimony before  
76 giving their own testimony.

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78 *Effective November 1, 2020*